

TITLE 5

Businesses and Professions

CHAPTER 5-5.1

Private Security Guard Businesses

Index Of Sections

- § 5-5.1-1 Short title.
- § 5-5.1-2 Definitions.
- § 5-5.1-3 Powers and duties of the general.
- § 5-5.1-4 Regulations.
- § 5-5.1-5 Subpoenas, oaths, and contempt.
- § 5-5.1-6 Inspections – Audits.
- § 5-5.1-7 License to conduct business – Violation.
- § 5-5.1-8 License qualifications.
- § 5-5.1-9 Investigation and action on application.
- § 5-5.1-10 Grounds for denial of application for license or renewal of license.
- § 5-5.1-11 Procedure for approval or denial of application – Hearings.
- § 5-5.1-12 Renewal of licenses.
- § 5-5.1-13 Registration and license fees.
- § 5-5.1-14 Nontransferability of license.
- § 5-5.1-15 Grounds for suspension and revocation of licenses.
- § 5-5.1-16 Surrender of license.
- § 5-5.1-17 Change in status of licensee.
- § 5-5.1-18 Registration.
- § 5-5.1-19 Uniform and equipment.

SECTION 5-5.1-1

§ 5-5.1-1 Short title. — This chapter is cited as the "Private Security Guard Act of 1987".

SECTION 5-5.1-2

§ 5-5.1-2 Definitions. — (a) As used in this chapter:

- (1) "Applicant" means any person who on his or her own behalf or on behalf of another has applied for permission to engage in any act or activity which is regulated under the provisions of this chapter.
- (2) "Branch office" means any office of a licensee within the state other than its principal place of business within the state.
- (3) "Business" means any corporation, company, association, operation, firm, partnership, institution, trust, or other form of business association, as well as a natural person. One client or customer constitutes a business.
- (4) "Employee" means any natural person employed by the businesses defined in subsections (a) and (b). It does not include secretaries and clerical workers.
- (5) "General" means the Attorney General of the state of Rhode Island;
- (6) "License" means any license required by this chapter.
- (7) "Licensee" means any person to whom a license is granted in accordance with, the provisions of this chapter.
- (8) "License fee" means any moneys required by law to be paid for the issuance or renewal of any license required by the regulations.
- (9) "Person" means any corporation, company, association, operation, firm, partnership, institution, trust, or other form of business association, as well as a natural person.
- (10) "Private security guard business" includes:
 - (i) A business which furnishes for hire or reward watchmen, guards, bodyguards, private patrolmen, or other persons, to protect persons or real and personal property.
 - (ii) A business which furnishes for hire or reward any trained dog or other animal with or without an accompanying handler for the purpose of providing security.
- (11) "Publicly traded corporation" means any corporation or other legal entity, except a natural person, which:
 - (i) Has one or more classes of security registered pursuant to § 12 of the securities exchange act of 1934, as amended (15 U.S.C. § 781), or
 - (ii) Is an issuer subject to § 15 (d) of the securities exchange act of 1934 as amended (15 U.S.C. § 780).
- (b) Words and terms: tense, number, and gender. In construing the provisions of this chapter except when otherwise plainly declared or clearly apparent from the context:
 - (1) Words in the present tense include the future tense;
 - (2) Words in the masculine include the feminine and neuter genders; and
 - (3) Words in the singular include the plural and the plural includes the singular.

SECTION 5-5.1-3

§ 5-5.1-3 Powers and duties of the general. — The general or his or her designee have general responsibility and authority for the implementation of this chapter, as subsequently provided, including, without limiting the responsibility and authority:

- (1) To process all applications for any license provided under this chapter;
- (2) To investigate the qualifications of each applicant before any license is issued pursuant to the provisions of this chapter and to obtain a criminal background check on any applicants from the division of criminal identification within the department of the attorney general;
- (3) To hear and decide all license applications, which includes the power to grant or deny the application and revoke or suspend the license;
- (4) To promulgate any rules and regulations that in his or her judgment are necessary to fulfill the policies of this chapter;
- (5) To investigate violations of this chapter and regulations promulgated under this chapter; and
- (6) To collect all license and registration fees imposed by law and forward the fees immediately to the general treasurer.

SECTION 5-5.1-8

§ 5-5.1-8 License qualifications. – (a) Every applicant, or in the case of a partnership each partner, or in the case of a corporation, each officer and general, and each shareholder owning a ten percent (10%) or greater interest in the applicant, provided the applicant is not a publicly traded corporation, shall meet the following qualifications before it may engage in any business licensed under this chapter:

- (1) Be eighteen (18) years of age;
- (2) Be a citizen of the United States or a resident alien;
- (3) Not have been convicted in any jurisdiction of a felony;
- (4) Not have had his or her license or registration revoked or application for the license or registration denied by the general or by the appropriate authority of any other jurisdiction;
- (5) Not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not having been restored;
- (6) Not suffer from habitual drunkenness or from narcotics addiction or dependence; and
- (7) Be of good moral character.

(b) A corporation seeking a license shall be incorporated under the laws of this state or shall be qualified to do business within this state with a valid certificate of authority issued by the secretary of state and an agent for service of process designated as required by law.

(c) With verification of no criminal background as established in subsection (a), any person engaged in the private security guard industry, prior to January 1, 1988, and who continues to be engaged as of January 1, 1988, may apply for a security agent license. This initial application will be treated as a renewal of a license.

SECTION 5-5.1-9

§ 5-5.1-9 Investigation and action on application. – After an examination of the application and any further inquiry and investigation that he or she deems proper and necessary as to the good character, competency, and integrity of the applicant and the persons named in the application, the general shall as soon as practicable issue a license in a form prescribed by him or her to the applicant or notify the applicant of a denial of the license application.

SECTION 5-5.1-10

§ 5-5.1-10 Grounds for denial of application for license or renewal of license. – The general shall deny the application for or renewal of a license if he or she finds that the applicant, or the qualifying agent, or any of the applicant's partners, officers, generals, or shareholders owning a ten percent (10%) or greater interest in the applicant, provided the applicant is not a publicly traded corporation, does any of the following:

- (1) Violates any provisions of this chapter or rules and regulations promulgated under this chapter;
- (2) In the case of the qualifying agent, commits any act which would disqualify the qualifying agent under § 5-5.1-8 and in the case of the applicant, or applicant's partners, officers, generals, or shareholders owning a ten percent (10%) or greater interest in the applicant, provided the licensee is not a publicly traded corporation, has failed to meet the qualifications of § 5-5.1-8;
- (3) Practices fraud, deceit or misrepresentation;
- (4) Makes a material misstatement in the application for or renewal of a license; and
- (5) Demonstrates incompetence or untrustworthiness in actions affecting the conduct of the business required to be licensed under the chapter.

SECTION 5-5.1-15

§ 5-5.1-15 Grounds for suspension and revocation of licenses. – The general may suspend or revoke any license issued under this chapter in the manner subsequently prescribed if the licensee or any of its partners, officers, generals, and shareholders owning a ten percent (10%) or greater interest in the license, provided the licensee is not a publicly traded corporation, and the qualifying agent does any of the following:

- (1) Violates any provisions of this chapter or rules and regulations promulgated under this chapter;
- (2) Practices fraud, deceit or misrepresentation;
- (3) Makes a material misstatement in the application for or renewal of the license;
- (4) In the case of the qualifying agent, commits any act which would disqualify the qualifying agent under § 5-5.1-8 and in the case of the licensee, or any of its partners, officers, generals and shareholders owning a ten percent (10%) or greater interest in the licensee, provided the licensee is not a publicly traded corporation, fails to meet the qualifications of § 5-5.1-8.
- (5) Demonstrates incompetence or untrustworthiness in actions affecting the conduct of the business required to be licensed under this chapter.
- (6) Prior to suspension or revocation of a license, the general promptly notifies the licensee of his or her intent to issue an order for revocation or suspension, stating the grounds for revocation or suspension. Within fifteen (15) days of receipt of notice of intent to revoke or suspend from the general, the licensee may request a hearing in writing.
- (7) If a request for a hearing is timely received, the general shall set a date for a hearing and notify the parties of the time and place of the meeting.
- (8) All hearings are held in accordance with the provisions of chapter 35 of title 42.
- (9) After the licensee has exhausted the right of appeal or, if the licensee does not seek a hearing, the licensee shall immediately cease to operate the business for the time period provided in the order of suspension or permanently in the case of revocation and shall notify all of its clients of the revocation or suspension and maintain a copy of the notices in its business records.
- (10) Under circumstances in which the general determines that the public health, welfare, or safety may be jeopardized by the termination of a licensee's services, the general may, upon his or her own motion or upon application by the licensee or any party affected by the termination, extend the time for the termination of the licensee's operations, subject to any reasonable, necessary and proper conditions or restrictions that he or she deems appropriate.

SECTION 5-5.1-16

§ 5-5.1-16 Surrender of license. – Each license is surrendered to the general within seventy-two (72) hours after it has been revoked or after the licensee ceases to do business pursuant to an order of suspension. If, however, the general or a court of competent jurisdiction has pending before it any matter relating to the renewal, revocation or transfer of a license, the licensee is not required to surrender the license until the matter has been adjudicated and all appeals have been exhausted provided that a stay has been obtained in accordance with the provisions of this chapter pertaining to judicial review.

SECTION 5-5.1-17

§ 5-5.1-17 Change in status of licensee. – The licensee shall notify the general, in writing, within five (5) days of:

- (1) Any change in identity of the licensee, or any of its partners, directors, officers, and shareholders owning a ten percent (10%) or greater interest in the licensee, provided the licensee is not a publicly traded corporation. Any substitute in the persons enumerated must satisfy all requirements of §§ 5-5.1-8 and 5-5.1-13 and be approved, in writing, by the general; and
- (2) Any material change in the information previously furnished or required to be furnished to the general or any occurrence which could reasonably be expected to affect the licensee's privilege to a license under this chapter.

SECTION 5-5.1-21

§ 5-5.1-21 Licensee business procedures. – (a) Any licensee shall, on notice from the general, discontinue any advertising or the use of any advertisement, seal or card, which in the opinion of the general tends to mislead the public. Failure to comply with this order of the general is cause for revocation of the license.

(b) No licensee shall, by the use of any letterhead, advertisement, or other printed matter, or in any manner, represent that he or she is an instrumentality or agency of the federal government or of the state or political subdivision of the state.

(1) No licensee shall conduct a business under a trade name until he or she has obtained the written authorization of the general to do so. The general shall not authorize the use of a trade name which, in his or her opinion, is similar to that of a public office or agency, or of that used by another licensee that the public may be confused or misled by the trade name, except that this provision does not apply to the continued use of a trade name by a corporation which:

(i) Was commercially using that trade name in good faith on December 31, 1987; and

(ii) Had commercially used that trade name in good faith continuously for a period of more than one year prior to December 31, 1987.

(2) The authorization requires, as a condition precedent to the use of the name, the filing of a certificate of doing business under the name with the city or town clerk of the city or town where the licensee's principal place of business is located and with the secretary of state in the manner provided by law.

SECTION 5-5.1-22

§ 5-5.1-22 Insurance requirements. – A licensee of a private security guard business shall file with the general a certificate of insurance evidencing comprehensive general liability coverage for bodily injury, personal injury, and property damage with endorsements for assault and battery and personal injury, including false arrest, libel, slander, and invasion of privacy, in the minimum amount of three hundred thousand dollars (\$300,000) for bodily or personal injury and one hundred thousand dollars (\$100,000) for property damage. A licensee shall also file endorsements for damage to property in their care, custody and control and for errors and omissions. The certificate provides that the insurance is not modified or cancelled unless thirty (30) days prior notice is given to the general. A licensee must be insured by a carrier licensed in this state.

SECTION 5-5.1-23

§ 5-5.1-23 Criminal offenses. – (a) It is unlawful for any person subject to the provisions of this chapter to knowingly commit any of the following:

(1) Provide any service required to be licensed under this chapter without possessing a valid license;

(2) Employ any individual to perform the duties of an unarmed employee or armed employee who has not first complied with all provisions of this chapter and the regulation in all respects;

(3) Falsely represent that a person is the holder of a valid license; or

(4) Possess a license or identification card issued to another person.

(b) The violation of any of the provisions of this section is a felony.

SECTION 5-5.1-24

§ 5-5.1-24 Judicial review. – (a) Any person aggrieved by a final decision or order of the general made after a hearing or rehearing whether or not a petition for a hearing was filed, may obtain judicial review of the decision by appeal to the superior court in accordance with chapter 35 of title 42.

(b) Filing of an appeal shall not stay enforcement of the decision or order of the general unless the stay is obtained from the court upon application in accordance with the rules of court or from the general upon any terms and conditions that he or she deems proper.